IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1374 OF 2007

Laxmi Nagappa Koli ..Petitioner
(Org. Accd.No.4)

Vs.

The Intelligence Officer,
Narcotics Control Bureau, Mumbai
and anr. ..Respondents

Mr. Abhaykumar Apte i/by Mr.S.D. Thokade for petitioner.

Mr. A.S. Shitole, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : October 24, 2007.

P.C.:

1. Heard Mr. Apte the learned counsel for the petitioner - original accused no.4 in NDPS Spl. R.A. No.20 of 2006. In the said case NDPS Misc. Application No. 550 of 2006 was filed by the petitioner praying for her discharge under Section 227 of the Cr.P.C. It was contended that beyond the statement recorded under Section 67 of the NDPS Act, there was no evidence even to frame the charge and,

therefore, the accused no.4 - applicant ought to have been discharged. The learned Special Judge, while rejecting the said application by his order dated 6/3/2007, stated, inter alia, that the statements of the applicant and other accused recorded under Section 67 of the NDPS Act are admissible in evidence and the said statements were recorded by the officers of NCB and, therefore, such statements can be looked into even at the time of framing of charge.

2. Undoubtedly, such statements recorded under Section 67 of the NDPS Act can be tested during the cross of recording of oral and documentary evidence before the trial court but as of now it cannot be said that there was no material even to frame the charge against the petitioner. The statements made under Section 67 of the NDPS Act are admissible as evidence subject to all other legal exceptions and, therefore, it cannot be said as of now that there was no material against the petitioner for continuing the trial of the case.

3. It appears that the learned counsel for the

petitioner had relied upon a number of decisions and the trial court noted that in all the said cases the statements of the accused or co-accused recorded under Section 67 of the NDPS Act were appreciated on the basis of the evidence adduced at the time of trial and, therefore, the said decisions could not be considered while framing of charge on the basis of such statement recorded.

4. I, therefore, do not find any case to interfere in the impugned order as the same order cannot be termed as perverse or patently erroneous. Petition is rejected summarily.

(B.H. Marlapalle,J.)